

## **TITLE 2. CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM NOTICE OF PROPOSED REGULATORY ACTIONS**

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below after considering public comments, objections, or recommendations.

### **I. PROPOSED REGULATORY ACTION**

In this filing, the Board proposes to amend sections 599.500, subdivision (n), 599.501, subdivisions (f) and (g), and add section 599.500, subdivisions (o), and (p) to the California Code of Regulations, Title 2, entitled "Definitions, Coverage, Enrollment, Conversion, Minimum Standards, Alternative Benefit Plans, Contributions, Contingency Reserve Fund, Contracting Agency Participation and Medicare Part B." Various subdivisions have also been "renumbered" as a result of the additions, with no substantive alterations.

### **II. WRITTEN COMMENT PERIOD**

Any interested person may submit written comments relevant to the proposed regulatory action. The written comments period closes at 5:00 p.m. on November 15, 2010. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via Fax at (916) 795-4607; e-mail at [veronica\\_mora@calpers.ca.gov](mailto:veronica_mora@calpers.ca.gov) or mailed to the following address:

Veronica Mora, Regulations Coordinator  
California Public Employees' Retirement System  
P.O. Box 942702  
Sacramento, California 94229-2702  
Phone: (916) 795-0713

### **III. PUBLIC HEARING**

Pursuant to Government Code (GC) section 11346.8, a public hearing on this matter has not been scheduled. However, if an interested person or his or her duly authorized representative submits in writing to the CalPERS Regulations Coordinator a request for a public hearing no later than 14 days prior to the close of the written comment period, November 1, 2010, a public hearing shall be scheduled before the CalPERS Health Benefits Committee. Notice of the time, date, and place of the hearing will be provided to every person who has filed a request for notice with CalPERS.

#### IV. ACCESS TO HEARING ROOM

The hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

#### V. AUTHORITY AND REFERENCE

The Board has general authority to take regulatory action under GC section 20121. The Board has specific authority to amend section 599.500, subdivision (n), and section 599.501, subdivisions (f) and (g) along with the authority to propose a new section 599.500, subdivisions (p) and (o). Reference citation: California Government Code, section 22775.

#### VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CalPERS provides health care to State and contracting agency employees, annuitants, and eligible family members under the Public Employees' Medical and Hospital Care Act in GC section 22750 et seq. Pursuant to State law and regulation, CalPERS currently provides dependent health care coverage to eligible children who are unmarried up to age 23 and disabled children, regardless of age. By virtue of the Act and interim final regulations, these coverage limitations are inconsistent with current federal law. To align State law to the Act, the Board recommended the Legislature amend GC section 22775 to remove provisions that require that a child be unmarried to be considered eligible for health care coverage as a "family member." These provisions are included in Senate Bill 1139 (Correa 2010) which is currently enrolled, but has not yet been sent to the Governor. The GC section 22775 also provides the Board shall, by regulation, prescribe age limits and other conditions and limitations pertaining to children, which is accomplished by the CCR, Title 2, sections 599.500 and 599.501. Pursuant to the Act, CalPERS must begin offering dependent health care coverage to eligible children up to age 26 in the plan year beginning January 1, 2011. The CCR sections 599.500 and 599.501 must be amended to comply with these requirements.

The GC section 22775, definition of "Family Member" authorizes the Board by regulation, to prescribe conditions and limitations pertaining to children. The proposed regulations would amend sections 599.500, subdivision (n), 599.501, subdivisions (f) and (g), and add proposed new section 599.500, subdivisions (o), and (p). The amendments and new subdivisions would clarify existing regulations by separating out conditions or limitations pertaining to the eligibility of "children."

Proposed amendments to section 599.500, subdivision (n) provides definitions to the term child; proposed amendments to section 599.500 subdivisions (f) and (g) clarifies guidelines and requirements to provide health care coverage to children; proposed new section 599.500 subdivisions (o) and (p) provide additional definitions to family member, child, and disabled child.

## VII. EFFECT ON SMALL BUSINESS

The proposed regulatory action does not affect small business because it applies only to the California Public Employees' Retirement Law.

## VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

- A. MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS: While the proposed regulatory action imposes requirements on local agencies and school districts that contract with CalPERS to provide health benefits, any mandate is imposed by federal law. Reference citation: Patient Protection and Affordable Care Act, Pub. L. 111-148, Interim Final Regulations at 26 CFR 54 and 602, 29, CFR 2590, 45 CFR 144, 146, and 147
- B. COST OR SAVINGS TO ANY STATE AGENCY: The proposed regulatory action will impact costs to State Agencies.
- C. COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT: The proposed regulatory action will impact costs for local agencies and school districts that contract with CalPERS to provide health benefits.
- D. NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES: The proposed regulatory action does not impose nondiscretionary costs or savings on local agencies that contract with CalPERS to provide health benefits.
- E. COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE: The proposed regulatory action may impact federal funding to the State.
- F. ADVERSE ECONOMIC IMPACT: CalPERS has made an initial determination that the proposed regulatory actions will not have a significant statewide adverse economic impact directly affecting businesses including the ability of business in California to compete with business in other states.
- G. COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES: The CalPERS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- H. IMPACT ON JOBS AND BUSINESS WITHIN CALIFORNIA: The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- I. EFFECT ON HOUSING COSTS: The proposed regulatory action has no significant effect on housing costs.
- J. COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT WHICH MUST BE REIMBURSED IN ACCORDANCE WITH GC SECTIONS 17500 THROUGH 17630: None.

IX. CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action. The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the above mentioned hearing or during the written comment period.

X. CONTACT PERSONS

Please direct inquiries concerning the substance of the proposed regulatory action to:

Pat Sherard, HBB Legislative Coordinator  
California Public Employees' Retirement System  
P.O. Box 720724  
Sacramento, California 94229-0724  
Telephone: (916) 795-0885  
Fax: (916) 795-4680  
E-Mail: [pat\\_sherard@calpers.ca.gov](mailto:pat_sherard@calpers.ca.gov)

Please direct requests concerning processing of this regulatory action to Veronica Mora, Regulations Coordinator, at the address shown in Section II.

XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The entire rulemaking file is available for public inspection through the Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons (ISOR). A copy of the proposed text and the ISOR is available at no charge upon telephone or written request to the Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Veronica Mora, Regulations Coordinator, at the address shown in Section II.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' website at [www.calpers.ca.gov](http://www.calpers.ca.gov).

- XI. The Board may, on its own motion or at the recommendation of any interested person, modify the proposed text of the regulations after the public comment period closes.

If the Board modifies its regulatory action, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends, or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed as to the outcome of this regulatory action.